

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Provision of Directory Listing Information)	CC Docket No. 99-273
Under the Communications Act of 1934)	
As Amended)	
)	
The Use of N11 Codes and Other Abbreviated)	CC Docket 92-105
Dialing Arrangements)	
)	
Administration of the North American)	CC Docket 92-237
Numbering Plan)	

COMMENTS OF SUREWEST COMMUNICATIONS

SureWest Communications (“SureWest”), by its attorneys, hereby submits these comments in response to the Commission’s January 9, 2002 Notice of Proposed Rulemaking (“NPRM”) in the above-captioned dockets. Herein, SureWest opposes the presubscription of the 411 directory assistance code as unnecessary since substantial competition already exists in the directory assistance market, and unwise due to significant technical feasibility, cost, and customer confusion issues.

I. Introduction

SureWest is a facilities-based provider of telecommunications services, based in Roseville, California. Through its subsidiary companies, SureWest provides incumbent local exchange, competitive local exchange, directory assistance, interexchange, broadband and PCS services. SureWest’s subsidiary Roseville Telephone Company (“RTC”) is an ILEC serving subscribers in an 83 square mile area, with central office

locations serving the Roseville and Citrus Heights, California region. RTC has been providing high quality communications services to its subscribers for over 86 years, and currently serves approximately 134,000 access lines.

In the NPRM, the Commission seeks comments on a proposal by Telegate, Inc. to enhance competition in the directory assistance (“DA”) market by requiring LECs to implement presubscription to the 411 code for access to DA services. SureWest believes that this proposal is unnecessary, since the retail DA market is already very competitive. Furthermore, Telegate’s proposal is not technically feasible in many cases, and even where it is technically feasible, would unnecessarily impose large costs on carriers which would ultimately be passed along to end users. In addition, 411 presubscription raises serious concerns regarding conflicting state requirements on ILEC provision of DA. Lastly, under no circumstances should the Commission prohibit the use of the 411 code for DA, as such an action would cause significant customer confusion.

II. Substantial Competition Exists in the Retail DA Market.

As noted in the NPRM, “the Commission has [already] taken steps to ensure that a competitive DA market can develop.” *Id.* at para. 2. These regulatory actions, as well as changes in technology and market forces, have resulted in substantial competition in the DA market.

The Commission should recognize the growing impact of multiple providers of DA services to end users, including CLECs, IXCs, CMRS operators and Internet DA

providers. Evidence that the DA market is competitive is reflected in the fact that while ILEC access lines are growing, the number of DA calls from ILEC subscribers to the ILECs is declining. For example, from 1999 through 2001, RTC's access lines grew by 3 percent, but DA calls from RTC subscribers to RTC decreased by 7 percent.

SureWest has no reason to believe that these subscribers made less DA calls in the last two years. Rather, it appears that they made an increasing number of calls to other DA providers.

The Commission asserts in paragraph 13 of the NPRM that competition in the wholesale DA market does not assure the existence of competition in the retail DA market. However, the Commission should recognize that the growing number of providers of wholesale DA services (*i.e.*, to carriers) are themselves also providing service directly to the end-user, *i.e.* providing retail DA service. For example, in the Local Competition Third Report and Order, the Commission found that the wholesale market for provision of DA services was so strong, that it need not require ILECs to offer DA/operator services to competitors as an unbundled network element. FCC 99-238 (released November 5, 1999) at paras. 441-442, 447-449. Yet, many of the wholesale providers recognized therein by the Commission also provide service directly to end users: AT&T, WorldCom, Sprint, and McCleod.

In sum, the retail DA market is already competitive, and thus there is no need to create new measures to create competition through presubscription of the 411 code.

III. The Telegate Proposal is Not Technically Feasible in Many Cases, and Where it is Feasible, the Costs Outweigh Any Possible Benefits.

As noted in the NPRM, the Telegate proposal has two options for implementing DA presubscription for 411: through use of the Advanced Intelligent Network (“AIN”) functionality in some switches, or by reprogramming each central office switch to establish a connection to a preselected DA provider when 411 is dialed on a given line. However, for at least some ILECs, neither of these approaches are technically feasible, and even where they are technically feasible, the costs will be so significant as to outweigh any possible benefits.

Telegate asserts that the best approach for presubscription would be use of AIN features in ILEC switches. However, RTC currently has no AIN functionality in its switches. Furthermore, RTC has been advised by its switch provider (Lucent Technologies) that it would cost over \$2 million to install AIN functionality in the RTC switches. This expense would equal approximately \$15 per RTC access line. RTC has no current plans to market services which would use AIN functionality, and clearly, there is no way that this cost could be justified solely for the provision of 411 presubscription. Furthermore, this cost could not be recovered in any economically feasible manner as part of a 411 presubscription regime. In para. 26 of the NPRM, the Commission inquired as to whether it should exempt from the general presubscription requirement, those switches that lack the necessary AIN features. In light of the economic feasibility issues described above, SureWest asserts that such an exemption is required as a matter of economic rationality and fairness.

The alternative approach in Telegate's proposal is to use newly developed software inserted into central office switches which would route 411 calls to a preselected DA provider. However, Lucent has informed RTC that it does not at this time plan to develop such software, based on an analysis that the cost of development of the software alternative would be significantly greater than the anticipated revenue from sale of the software. Without provision from Lucent, RTC could not implement the software-based approach.

In sum, the cost of the AIN approach for RTC are clearly economically unjustifiable, and the software approach appears to be technically infeasible because the switch manufacturer believes that developing the required software is economically infeasible. Accordingly, adoption of the Telegate proposal is unwise for these reasons alone, and even more unwise in light of the current competitive nature of the DA market.

IV. 411 Presubscription Raises Serious Concerns Regarding Conflicting State Requirements on ILEC Provision of DA.

While the Telegate plan is unnecessary to promote competition in the DA market, and likely to generate substantial costs and technical problems, it also raises serious concerns about conflicts with state requirements on ILEC provision of DA. Even putting aside jurisdictional issues, SureWest asserts that it is inherently unfair to enact regulations designed to shift more of the DA market away from ILEC providers, while those providers remain burdened with requirements not imposed on their independent competitors.

Many states have imposed requirements on ILECs that involve the provision of free service to some or all classes of subscribers. For example, in California, many ILECs must provide three to five free DA calls per month to all residential subscribers, and unlimited DA calls to subscribers unable to use a telephone directory due to visual or other physical limitations. Obviously, these requirements generate costs for the ILEC. No such requirements are imposed on CLECs. Given that ILECs have carrier-of-last-resort responsibility to serve all customers regardless of cost, it is patently unfair to let competitors take the profitable portion of the DA market by presubscription while leaving behind for the ILEC those customers with higher DA costs due to state requirements.

V. Under No Circumstances Should Use of the 411 Code for DA Be Eliminated.

As noted in paragraph 45 of the NPRM, Telegate suggests that if presubscription to 411 is not implemented and/or alternative dialing methods for providing DA service are encouraged, then the use of 411 as an access code for DA should be eliminated. SureWest strongly opposes such an action, as it would unnecessarily harm both competition and end users.

While the Commission has never permanently assigned the 411 code for use of DA, as the Commission knows, the code is almost universally associated with DA by end users. While end users have used the 555-1212 number for out-of-market DA, eliminating the 411 code for local DA would add an unnecessary burden on end users by requiring them to dial a large number of additional digits for the same local DA

service. In addition, the elimination of the 411 local DA code would certainly cause tremendous confusion for end users. Such confusion would impose further costs on ILECs, who would be the carrier contacted by such angry and confused users.

VI. Conclusion

The Telegate 411 presubscription proposal is unnecessary, as the DA market is already competitive. Furthermore, at least in the case of RTC and other carriers who do not currently have AIN capabilities in their switches, adding AIN to handle 411 prescription will be economically prohibitive, and Telegate's proposed software solution appears to be unavailable because development of the software is not economically justified. In sum, presubscription of the 411 code is unwise. However, if the Commission nevertheless enacts such presubscription, it should exempt those ILECs who do not have AIN capability, as well as ILECs subject to conflicting state policies. Lastly, in order to prevent substantial customer confusion, under no circumstances should the use of the 411 code for DA be eliminated.

Respectfully submitted,

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